

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**THOMAS D COLE**

Claimant

**APPEAL NO: 13A-UI-10509-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 08/25/13**

**Claimant: Appellant (4)**

871 IAC 24.2(1)a & h(1)(2) – Backdating of Claim

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated September 10, 2013, reference 01, that denied his request to backdate his claim prior to August 25, 2013. A telephone hearing was held on September 27, 2013. The claimant participated. Claimant Exhibits A & B was received as evidence.

**ISSUE:**

Whether the claimant's claim may be backdated.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant's ending date for active duty military orders was May 31, 2013. He immediately went to his local workforce office to file an unemployment (UI) claim.

When he met with a representative during the week ending June 8, he was told that he had to have his DD 214 military file in order to file a UI claim. For the next three months he telephoned and e-mailed his military unit seeking his file without success.

His final effort was an in-person visit to Camp Dodge then to the State Inspector General and the Iowa National Guard head of personnel. On August 29 claimant received an electronic copy of his DD 214 and immediately used information from it to file an on-line UI claim on August 30. Claimant is requesting to backdate his UI claim to June 2.

Claimant made a search for work and has that record on and after his May 31 military separation date. He recently found gainful employment as a result of that effort.

## REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.2(1)h(1), (2) and (3) provide:

Procedures for workers desiring to file a claim for benefits for unemployment insurance.

(1) Section 96.6 of the employment security law of Iowa states that claims for benefits shall be made in accordance with such rules as the department prescribes. The department of workforce development accordingly prescribes:

h. Effective starting date for the benefit year.

(1) Filing for benefits shall be effective as of Sunday of the current calendar week in which, subsequent to the individual's separation from work, an individual reports in person at a workforce development center and registers for work in accordance with paragraph "a" of this rule.

(2) The claim may be backdated prior to the first day of the calendar week in which the claimant does report and file a claim for the following reasons:

Backdated prior to the week in which the individual reported if the individual presents to the department sufficient grounds to justify or excuse the delay;

There is scheduled filing in the following week because of a mass layoff;

The failure of the department to recognize the expiration of the claimant's previous benefit year;

The individual is given incorrect advice by a workforce development employee;

The claimant filed an interstate claim against another state which has been determined as ineligible;

Failure on the part of the employer to comply with the provisions of the law or of these rules;

Coercion or intimidation exercised by the employer to prevent the prompt filing of such claim;

Failure of the department to discharge its responsibilities promptly in connection with such claim, the department shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of potential rights to benefits, provided, that no such claim may be filed after the 13 weeks subsequent to the end of the benefit year during which the week of unemployment occurred. In the event continuous jurisdiction is exercised under the provisions of the law, the department may, in its discretion, extend the period during which claims, with respect to week of unemployment affected by such redetermination, may be filed.

(3) When the benefit year expires on any day but Saturday, the effective date of the new claim is the Sunday of the current week in which the claim is filed even though it may overlap into the old benefit year up to six days. However, backdating shall not be allowed at the change of the calendar quarter if the backdating would cause an overlap of the same quarter in two base periods. When the overlap situation occurs, the effective date of the new claim may be postdated up to six days. If the claimant has benefits remaining on the old claim, the claimant may be eligible for benefits for that period by extending the old benefit year up to six days.

The administrative law judge concludes that the claimant established a justifiable cause for the delay in filing of his UI claim, and his request to backdate the claim to June 2, 2013 is approved.

The department representative who told claimant he needed the DD 214 file caused the initial delay, because when he filed his on-line August 30 claim he needed only some information from it. He offered credible testimony he had to have the file and the further delay was his effort to obtain it.

**DECISION:**

The department decision dated September 10, 2013, reference 01, is modified in favor of the claimant. The claimant may backdate his claim for benefits to June 2, 2013. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs